

JS-6

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION – LOS ANGELES**

PATAGONIA, INC.,

Plaintiff,

v.

CANDICE HAMBY,

Defendant.

Case No. 2:23-04038-SVW-KS

**~~PROPOSED~~ FINAL CONSENT  
JUDGMENT AND PERMANENT  
INJUNCTION**

Plaintiff Patagonia, Inc. (“Patagonia”) filed a Complaint alleging trademark infringement, trademark dilution, and unfair competition under federal and state law, and trademark counterfeiting and copyright infringement under federal law, against Defendant Candice Hamby (“Candice Hamby” or “Defendant”). Candice Hamby has sourced, promoted, marketed, offered and sold apparel products that bear counterfeit replicas of Patagonia’s famous trademarks and logos, while falsely representing to consumers that those products are genuine and authorized.

Candice Hamby consents to entry of judgment and a permanent injunction.


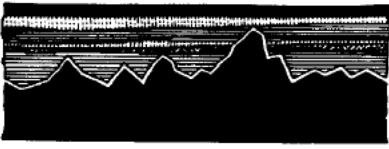

The Court now enters final judgment based upon the following undisputed

facts. Each party has waived the right to appeal from this final judgment, and each party will bear its own fees and costs in connection with this action.

### **I. FACTUAL FINDINGS AND CONCLUSIONS**

A. This Court has subject matter jurisdiction over this lawsuit and personal jurisdiction over Defendant. Venue is proper in this Court.

B. Patagonia owns numerous registrations for the PATAGONIA trademark, and for its distinctive logo depicting the Mt. Fitz Roy skyline (the “P-6 logo”), for a wide-ranging assortment of products. Among these are the following U.S. trademark registrations:

| <b>Trademark</b>  | <b>Reg. No. /<br/>Reg. Date</b>   | <b>Goods</b>  | <b>Date of<br/>First Use</b> |
|---|-----------------------------------|---|------------------------------|
| <b>PATAGONIA</b>  | 1189402/<br>February 9,<br>1982   | Men’s and Women’s Clothing-Namely, Sweaters, Rugby Shirts, Walking Shorts, Trousers, Jackets, Mittens, Hoods and Rainwear.  | 08/1974                      |
|  | 1294523/<br>September<br>11, 1984 | Men’s, Women’s and Children’s Clothing-Namely, Jackets, Pants, Vests, Gloves, Pullovers, Cardigans, Socks, Sweaters, Underwear, Shirts, Shorts, Skirts and Belts  | 08/1974-<br>1981             |
|  | 1547469 /<br>July 11, 1989        | Men’s, Women’s and Children’s Clothing-Namely, Jackets, Pants, Shirts, Sweaters, Vests, Skirts, Underwear Tops and Bottoms, Socks, Gloves, Mittens, Hats, Face Masks, Balaclava, Gaiters, Suspenders, and Belts | 08/1974-<br>1981             |
|  | 1775623/<br>June 8, 1993          | Luggage back packs, and all-purpose sports bags   | 08/1988                      |

| Trademark            | Reg. No. /<br>Reg. Date          | Goods   | Date of<br>First Use |
|----------------------|----------------------------------|---|----------------------|
| <b>PATAGONIA</b>     | 1811334/<br>December 14,<br>1993 | Luggage, back packs,<br>fanny packs and all-<br>purpose sport bags, foot-<br>wear, ski bags and ski<br>gloves   | 08/1990              |
| <b>PATAGONIA</b>     | 2260188/<br>July 13, 1999        | Computerized on-line<br>ordering activities in the<br>field of clothing and acces-<br>sories; Providing informa-<br>tion in the field of technical<br>clothing and accessories<br>for use in recreational,<br>sporting and leisure<br>activities; providing<br>information in the field of<br>existing and evolving<br>environmental issues | 10/1995              |
| <b>PATAGONIA.COM</b> | 2392685/<br>October 10,<br>2000  | On-line retail store and<br>mail order services featur-<br>ing technical clothing,<br>footwear, and accessories;<br>Computer services in the<br>nature of on-line informa-<br>tion related to the environ-<br>ment and clothing   | 10/1995              |
| <b>PATAGONIA</b>     | 2662619/<br>December 17,<br>2002 | Retail store services featur-<br>ing clothing, footwear,<br>luggage and a wide variety<br>of sporting goods and<br>accessories  | 06/1986              |

These registrations are in full force and effect and (with the exception of Reg. No. 5561006) have become incontestable under 15 U.S.C. § 1065. Collectively, these marks, Patagonia's other registered trademarks, and its common law marks are referred to as the "PATAGONIA trademarks." Patagonia also owns a registered copyright (Registration No. VA 1-801-788) for the P-6 logo design. A color image of the P-6 logo design follows:



C. Candice Hamby has promoted and offered for sale products that bear one or more identical or substantially indistinguishable imitations of Patagonia's federally registered marks (the "Counterfeit Products"), and earned a profit through sales of such products. Candice Hamby sold the Counterfeit Products into this district. Representative images of these Counterfeit Products follow:



1 D. The Counterfeit Products are substantially similar to Copyright  
2 Registration No. VA 1-801-788 and Candice Hamby had access to the copyrighted  
3 P-6 design prior to advertising, distributing, displaying, and/or selling the  
4 Counterfeit Products. The copying was deliberate and willful and the Counterfeit  
5 Products infringe Patagonia's copyright.

6 E. The Counterfeit Products are identical to, or substantially  
7 indistinguishable from, the federally registered PATAGONIA trademarks, in  
8 connection with goods falling within the scope of Patagonia's federal registrations.

9 **II. FINAL JUDGMENT, PERMANENT INJUNCTION, AND AWARD**

10 It is hereby ordered and adjudged as follows:

11 A. Judgment is entered in favor of Patagonia against Candice Hamby.  
12 Candice Hamby shall be liable to Patagonia in the amount of \$2,068, which is  
13 inclusive of statutory damages for trademark counterfeiting pursuant to 15 U.S.  
14 Code § 1117(c).

15 B. Commencing as of the "So Ordered" date of this Final Consent  
16 Judgment and Permanent Injunction, Candice Hamby, her agents, employees,  
17 attorneys, successors, assigns, affiliates, joint ventures, and any person(s) in active  
18 concert or participation with her, and/or any person(s) acting for, with, by, through,  
19 or under Candice Hamby's control, who receive(s) actual notice of this Order, are  
20 hereby permanently enjoined and restrained, anywhere in the world, directly or  
21 indirectly, from doing, authorizing or procuring any persons to do any of the  
22 following:

23 1. Manufacturing, producing, sourcing, importing, selling, offering  
24 for sale, distributing, advertising, or promoting any of the Counterfeit Products;

25 2. Manufacturing, producing, sourcing, importing, selling, offering  
26 for sale, distributing, advertising, or promoting any goods or services that display  
27 any words or symbols that so resemble the PATAGONIA trademarks as to be likely  
28 to cause confusion, mistake, or deception, on or in connection with any product that



1 is not authorized by or for Patagonia;

2           3. Using any word, term, name, symbol, device, or combination  
3 thereof that causes or is likely to cause confusion, mistake, or deception as to the  
4 affiliation or association of Candice Hamby or her products or services with  
5 Patagonia, or as to the origin of Candice Hamby's goods or services, or any false  
6 designation of origin, false or misleading description or representation of fact, or  
7 any false or misleading advertising;

8           4. Further infringing the rights of Patagonia in and to its  
9 PATAGONIA trademarks, or otherwise damaging Patagonia's goodwill or business  
10 reputation;

11           5. Further infringing Patagonia's copyright rights, including its  
12 rights in the P-6 logo design, or otherwise infringing any of Patagonia's rights under  
13 the Copyright Act and any other source of federal or state law;

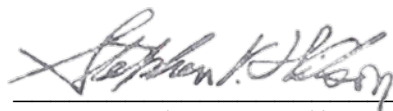
14           6. Otherwise competing unfairly with Patagonia in any manner; and

15           7. Assisting, aiding or abetting any person or entity engaging in or  
16 performing any act prohibited by this injunction.

17           C. This is a final judgment as to all claims asserted against Candice  
18 Hamby related to the Counterfeit Products, promoted or offered for sale prior to the  
19 date of entry of this Final Consent Judgment and Permanent Injunction. Both  
20 parties shall bear their own costs.

21           D. If Patagonia commences an action for enforcement of this Judgment,  
22 the prevailing party shall be awarded reasonable attorneys' fees and costs from the  
23 other party, for both the action enforcing this Judgment and the underlying  
24 litigation.

25 Dated: June 6, 2023

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27 \_\_\_\_\_

28 Hon. Stephen V. Wilson  
United States District Judge